

AMENDED IN ASSEMBLY SEPTEMBER 2, 2003

AMENDED IN SENATE MAY 7, 2003

SENATE BILL

No. 808

Introduced by Senator Karnette

February 21, 2003

An act to amend Sections 473, 473.1, and 473.2 of, to add Chapter 2 (commencing with Section 474) to Division 1.2 of, and to add a chapter heading to Division 1.2 of, the Business and Professions Code, and to *amend Section 9148.8 of, to add Article 8.5 (commencing with Section 9148.50) to Chapter 1.5 of Part 1 of Division 2 of Title 2 of, and to repeal Section 9148.10 of,* the Government Code, relating to boards and commissions.

LEGISLATIVE COUNSEL'S DIGEST

SB 808, as amended, Karnette. Joint Legislative Sunset Review Committee.

(1) Existing law, until January 1, 2004, creates the Joint Legislative Sunset Review Committee consisting of 6 members of the Legislature appointed by the Senate Committee on Rules and the Speaker of the Assembly. The joint committee is charged with evaluating and determining whether a board or regulatory program established by the Business and Professions Code has demonstrated a public need for continued existence based on various criteria, and the joint committee is required to report its findings and recommendations in that regard to the Department of Consumer Affairs, the public, and the Legislature.

This bill would extend the authority of the Joint Legislative Sunset Review Committee to January 1, ~~2010~~ 2012.

(2) Existing law provides for the operational review by the Joint Legislative Budget Committee of certain state boards whose members are appointed by the Governor or the Legislature.

This bill would *repeal those provisions and would, instead*, provide for a review of these boards by the Joint Legislative Sunset Review Committee ~~every 4 years~~ in a similar manner as that committee currently reviews boards and commissions in the Department of Consumer Affairs. The bill would require the affected boards and entities to prepare and submit an analysis and report to the Joint Legislative Sunset Review Committee not later than 22 months before the board is scheduled to be reviewed.

(3) *Existing law provides that the Committee on Rules of either house may direct the Joint Legislative Budget Committee to evaluate the creation of a new state board.*

This bill would transfer these duties and responsibilities to the Joint Legislative Sunset Review Committee.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. A chapter heading is added to Division 1.2 of the
2 Business and Professions Code, immediately preceding Section
3 473, to read:

4
5 CHAPTER 1. REVIEW OF BOARDS UNDER THE DEPARTMENT OF
6 CONSUMER AFFAIRS
7

8 SEC. 2. Section 473 of the Business and Professions Code is
9 amended to read:

10 473. (a) There is hereby established the Joint Legislative
11 Sunset Review Committee.

12 (b) The Joint Legislative Sunset Review Committee shall
13 consist of three members appointed by the Senate Committee on
14 Rules and three members appointed by the Speaker of the
15 Assembly. No more than two of the three members appointed from
16 either the Senate or the Assembly shall be from the same party. The
17 Joint Rules Committee shall appoint the chairperson of the
18 committee.

(c) The Joint Legislative Sunset Review Committee shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.

(d) The Speaker of the Assembly and the Senate Committee on Rules may designate staff for the Joint Legislative Sunset Review Committee.

(e) The Joint Legislative Sunset Review Committee is authorized to act until January 1, ~~2010~~ 2012, at which time the committee's existence shall terminate.

SEC. 3. Section 473.1 of the Business and Professions Code is amended to read:

473.1. This chapter shall apply to all of the following:

(a) Every board, as defined in Section 22, that is scheduled to become inoperative and to be repealed on a specified date as provided by the specific act relating to the board.

(b) The Bureau for Postsecondary and Vocational Education. For purposes of this chapter, "board" includes the bureau.

(c) The Cemetery and Funeral Bureau.

SEC. 4. Section 473.2 of the Business and Professions Code is amended to read:

473.2. All boards to which this chapter applies shall, with the assistance of the Department of Consumer Affairs, prepare an analysis and submit a report to the Joint Legislative Sunset Review Committee no later than 22 months before that board shall become inoperative. The analysis and report shall include, at a minimum, all of the following:

(a) A comprehensive statement of the board's mission, goals, objectives and legal jurisdiction in protecting the health, safety, and welfare of the public.

(b) The board's enforcement priorities, complaint and enforcement data, budget expenditures with average- and median-costs per case, and case aging data specific to post and preaccusation cases at the Attorney General's office.

(c) The board's fund conditions, sources of revenues, and expenditure categories for the last four fiscal years by program component.

(d) The board's description of its licensing process including the time and costs required to implement and administer its licensing examination, ownership of the license examination, relevancy and validity of the licensing examination, and passage rate and areas of examination.

(e) The board's initiation of legislative efforts, budget change proposals, and other initiatives it has taken to improve its legislative mandate.

SEC. 5. Chapter 2 (commencing with Section 474) is added to Division 1.2 of the Business and Professions Code, to read:

CHAPTER 2. REVIEW OF OTHER STATE BOARDS

474. The Joint Legislative Sunset Review Committee established pursuant to Section 473 shall review all state boards as defined in Section 9148.2 of the Government Code, *other than boards subject to review pursuant to Chapter 1 (commencing with Section 473)*, every four years, ~~other than boards subject to review pursuant to Chapter 1 (commencing with Section 473).~~ *years or over another time period as determined by the committee.*

474.1. Prior to recommending the termination, continuation, or reestablishment of any board or any of the state board's functions, the Joint Legislative Sunset Review Committee shall hold public hearings to receive testimony from ~~the Legislative Analyst's Office~~, the board involved, and the public. In that hearing, each board shall have the burden of demonstrating a compelling public need for the continued existence of the board.

474.2. All state boards to which this chapter applies shall, ~~with the assistance of the Legislative Analyst's Office, prepare an~~ *prepare an* analysis and submit a report to the Joint Legislative Sunset Review Committee not later than 22 months before that state board is scheduled to be reviewed by the committee. The analysis and report shall include, at a minimum, all of the following:

(a) A comprehensive statement of the state board's mission, goals, objectives, and legal jurisdiction in protecting the health, safety, and welfare of the public.

(b) The board's fund conditions, sources of revenues, and expenditure categories for the last four fiscal years by program component.

1 (c) The board's initiation of legislative efforts, budget change
2 proposals, and other initiatives it has taken to improve its
3 legislative mandate.

4 (d) *A complete cost-benefit analysis of the board's operation*
5 *for each of the four years preceding the date of the report or over*
6 *a time period specified by the committee.*

7 474.3. (a) The Joint Legislative Sunset Review Committee
8 shall evaluate and determine whether a state board as defined in
9 Section 9148.2 of the Government Code, other than a board,
10 subject to review pursuant to Chapter 1 (commencing with Section
11 473), has demonstrated a public need for its continued existence
12 based on, but not limited to, the following factors and minimum
13 standards of performance:

14 (1) Whether the board is necessary to protect the public health,
15 safety, and welfare.

16 (2) Whether the basis or facts that necessitated the initial
17 creation of the state board have changed.

18 (3) If the state board is necessary, whether existing statutes and
19 regulations establish the most effective regulation consistent with
20 the public interest, considering other available regulatory
21 mechanisms, and whether the board rules enhance the public
22 interest and are within the scope of legislative intent.

23 (4) Whether the state board operates and enforces its
24 responsibilities in the public interest and whether its mission is
25 impeded or enhanced by existing statutes, regulations, policies,
26 practices, or any other circumstances, including budgetary,
27 resource, and personnel matters.

28 (5) Whether an analysis of the state board indicates that it
29 performs its statutory duties efficiently and effectively.

30 (6) Whether the composition of the state board adequately
31 represents the public interest and whether it encourages public
32 participation in its decisions rather than participation only by the
33 entities it regulates or advises.

34 (7) Whether the state board and its laws or regulations stimulate
35 or restrict competition, and the extent of the economic impact the
36 board's regulatory practices have on the state's business and
37 technological growth.

38 (8) Whether administrative and statutory changes are
39 necessary to improve the state board operations to enhance the
40 public interest.

(b) The Joint Legislative Sunset Review Committee shall consider the appropriateness of eliminating and consolidating responsibilities between state boards.

(c) Nothing in this section precludes any state board *or, if requested by the Joint Legislative Sunset Review Committee, the Legislative Analyst's Office*, from submitting other appropriate information to the Joint Legislative Sunset Review Committee.

474.4. The Joint Legislative Sunset Review Committee shall ~~report its findings and preliminary recommendations to the Joint Legislative Budget Committee for its review, and, within 90 days of receiving the report, the Joint Legislative Budget Committee shall report its findings and recommendations to the Joint Legislative Sunset Review Committee. The committee shall then~~ meet to vote on final recommendations. A final report shall be completed by the committee and made available to the public and the Legislature. The report shall include final recommendations of the committee and whether each board or function shall be terminated, or continued, and whether its functions should be revised or consolidated with those of other state boards. If the committee deems it advisable, the report may include proposed bills to carry out its recommendations.

SEC. 6. *Section 9148.8 of the Government Code is amended to read:*

9148.8. (a) The Committee on Rules of either house of the Legislature, acting pursuant to a request from the chairperson of the appropriate policy committee, may direct the Joint Legislative ~~Budget Sunset Review~~ Committee to evaluate a plan prepared pursuant to Section 9148.4 or 9148.6.

(b) Evaluations prepared by the Joint Legislative ~~Budget Sunset Review~~ Committee pursuant to this section shall be provided to the respective Committee on Rules and the policy and fiscal committees of the Legislature pursuant to rules adopted by each committee for this purpose.

SEC. 7. *Section 9148.10 of the Government Code is repealed.*

~~9148.10. Any state board or category of licensed professional under this article shall be subject to the following:~~

~~(a) The Joint Legislative Budget Committee shall establish criteria and review processes for the operational review of each state board or category of licensed professional. The criteria and~~

1 ~~review processes shall include, but not be limited to, all of the~~
2 ~~following:~~

3 ~~(1) An assessment of whether the initial problem or condition~~
4 ~~which led to establishment of the state board or category of~~
5 ~~licensed professional being reviewed still exists to such a degree~~
6 ~~as to require the continued existence of that agency or category of~~
7 ~~licensed professional.~~

8 ~~(2) An assessment of other similar conditions which have~~
9 ~~arisen and the manner in which they have been addressed.~~

10 ~~(3) An assessment of the agency's or licensing category's~~
11 ~~current and original scope of authority and functions, and the~~
12 ~~justification for any change.~~

13 ~~(4) A full cost-benefit analysis of the state board's or licensing~~
14 ~~category's operation on a year-by-year basis since its~~
15 ~~establishment or prior review under this article.~~

16 ~~(b) The committee shall identify all state boards or categories~~
17 ~~of licensed professionals subject to review under this article and~~
18 ~~establish a schedule for review of these state boards or categories~~
19 ~~of licensed professionals. In no case shall any state board or~~
20 ~~category of licensed professional be allowed to operate for more~~
21 ~~than eight years after the initial date of its enactment without being~~
22 ~~subject to review under this article.~~

23 *SEC. 8.* Article 8.5 (commencing with Section 9148.50) is
24 added to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the
25 Government Code, to read:

26
27 Article 8.5. Legislative Review of State Boards

28
29 9148.50. The Legislature finds and declares all of the
30 following:

31 (a) California's multilevel, complex governmental structure
32 today contains more than 400 categories of administrative or
33 regulatory boards, commissions, committees, councils,
34 associations, and authorities.

35 (b) These administrative or regulatory boards, commissions,
36 committees, councils, associations, and authorities have been
37 established without any method of periodically reviewing their
38 necessity, effectiveness, or utility.

39 (c) As a result, the Legislature and residents of California
40 cannot be assured that existing or proposed administrative or

1 regulatory boards, commissions, committees, councils,
2 associations, and authorities adequately protect the public health,
3 safety, and welfare.

4 9148.51. (a) It is the intent of the Legislature that all existing
5 and proposed state boards be subject to review every four years to
6 evaluate and determine whether each has demonstrated a public
7 need for its continued existence in accordance with enumerated
8 factors and standards as set forth in Chapter 2 (commencing with
9 Section 474) of Division 1.2 of the Business and Professions Code.

10 (b) In the event that any state board becomes inoperative or is
11 repealed in accordance with the act that added this section, any
12 provision of existing law that provides for the appointment of
13 board members and specifies the qualifications and tenure of board
14 members shall not be implemented and shall have no force or
15 effect while that state board is inoperative or repealed.

16 (c) Any provision of law authorizing the appointment of an
17 executive officer by a state board subject to the review described
18 in Chapter 2 (commencing with Section 474) of Division 1.2 of the
19 Business and Professions Code, or prescribing his or her duties,
20 shall not be implemented and shall have no force or effect while
21 the applicable state board is inoperative or repealed.

22 (d) It is the intent of the Legislature that subsequent legislation
23 to extend or repeal the inoperative date for any state board shall be
24 a separate bill for that purpose.

25 9148.52. (a) The Joint Legislative Sunset Review
26 Committee established pursuant to Section 473 of the Business
27 and Professions Code shall review all state boards, as defined in
28 Section 9148.2, other than a board subject to review pursuant to
29 Chapter 1 (commencing with Section 473) of Division 1.2 of the
30 Business and Professions Code, every four years.

31 (b) The committee shall evaluate and make determinations
32 pursuant to Chapter 2 (commencing with Section 474) of Division
33 ~~1.2 of the Business and Professions Code and shall report its~~
34 ~~findings and recommendations to the Joint Legislative Budget~~
35 ~~Committee as provided in Section 474.4 of the Business and~~
36 ~~Professions Code. 1.2 of the Business and Professions Code.~~